

# MONTANA LEGISLATIVE HISTORY

Chapter 267 19 77

Bill H \_\_\_\_\_ S 58

Original bill & history X c

H. Committee on JUDICIARY

Hearing Date(s) ~~1/17~~ 3/9 X c

EXEC ACTION 3/10 X c

\_\_\_\_\_ c

\_\_\_\_\_ c

Date Out \_\_\_\_\_ c

S. Committee on JUDICIARY

Hearing Date(s) 1/17 X c

EXEC. ACTION 1/17 X c

REFERRED TO  
COMM. / 1/21 X c

EXEC. ACTION \_\_\_\_\_ c

Did this bill originate in an interim committee? \_\_\_\_\_ Yes X No

Committee \_\_\_\_\_

Report \_\_\_\_\_

*Senate* BILL NO. 58  
 INTRODUCED BY Rasmussen

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 66-1052, R.C.M. 1947, RELATING TO LIABILITY OF UTILIZATION, PEER REVIEW, AND PROFESSIONAL STANDARDS COMMITTEES SO THAT THE STATUTE WILL APPLY TO ALL HEALTH CARE PROFESSIONALS ON SUCH COMMITTEES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 66-1052, R.C.M. 1947, is amended to read as follows:

"66-1052. Nonliability for peer review -- application to nonprofit corporations. (1) No member of a utilization review committee of a hospital, or long-term care facility, or of a utilization committee ~~of--a-state-wide-or-local society--composed--of--doctors--of--medicine--or--doctors--of osteopathic--medicine--and--surgery--or--of-a-peer-review-or professional-standards-review-committee-of-a--state-wide-or local--society--composed--of-doctors-of-medicine--doctors-of osteopathic-medicine--and--surgery--doctors--of--dentistry, chiropractors--doctors--of--optometry--or--registered pharmacists--shall-be, peer review committee, or professional standards review committee of a society composed of persons licensed to practice a health care profession is liable in~~

damages to any person for any action taken or recommendation made within the scope of the functions of the committee, if the committee member acts without malice and in the reasonable belief that the action or recommendation is warranted by the facts known to him, after reasonable effort to obtain the facts of the matter for which the action is taken or a recommendation is made.

(2) This act also applies to any member of a nonprofit corporation engaged in performing the functions of a peer review or professional standards review committee."

-End-

INTRODUCED BILL

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an act entitled: "An act to provide that a defendant in a criminal action may not waive his right to a speedy trial without the consent of the prosecution."

**Senate Page No. 17, 82, 86, 88, 91, 104, 114, 119, 135, 142.**

- 57 Introduced by Watt, Blaylock, Bergren: A bill for an act entitled: "An act to allow the consolidation of offices of county superintendents of schools."

**Senate Page No. 20, 140, 141.**

- 58 Introduced by Rasmussen: A bill for an act entitled: "An act to amend Section 66-1052, R.C.M. 1947, relating to liability of utilization, peer review, and professional standards committees so that the statute will apply to all health care professionals on such committees."

**Senate Page No. 20, 58, 63, 76, 80, 91, 107, 123, 127, 145, 782, 812, 821, 966, 967, 969, 1006, 1078.**

**House Page No. 193, 198, 919, 929, 940, 975, 976, 980, 986, 996, 1021, 1060, 1321.**

- 59 Introduced by Goodover, Roskie, Hazelbaker, Galt, Devine, R. Smith, Murray, Nelson, Kolstad, Etchart, E. Smith, Stephens, Lensink, Lowe, Olson, Bergren, Lockrem, Story: A bill for an act entitled: "An act to repeal the Realty Transfer Act, Sections 84-7301 through 84-7311, R.C.M. 1947, and requiring the Department of Revenue to destroy all information collected pursuant to that act."

**Senate Page No. 20, 110, 122, 139, 166.**

- 60 Introduced by Watt, R. Smith: A bill for an act entitled: "An act to revise the income tax rates; providing sets of rates for married persons filing jointly and separately; amending Section 84-4902, R.C.M. 1947."

**Senate Page No. 20, 589, 595.**

- 61 Introduced by Lockrem, Lowe, Murray, Hager, Thomas: A bill for an act entitled: "An act to increase the tax on gasoline and to provide for urban street development; amending Sections 84-1832.1 and 84-1840, R.C.M. 1947."

**Senate Page No. 20, 120, 151, 171, 172, 400, 460, 478, 495.**

- 62 Introduced by Fasbender, Mathers: A bill for an act entitled: "An act to transfer all of the powers, duties, and functions of the Superintendent of Public Instruction, except those prescribed by the 1972 Montana Constitution, to the Board of Public Education; providing for an Executive Director of the Board of Public Education; amending Sections 44-127, 71-2406, 75-5612, 75-5615, 75-5706, 75-6010, 75-6318, 75-6719, 75-6917, 75-6918, 75-7502, 75-7707, 75-7803, 75-8002, 75-9205, 81-104, 82A-212, and 82A-511; repealing Sections 75-5704, 75-5705, 75-5707, and 75-7703, R.C.M. 1947."

MINUTES OF MEETING  
SENATE JUDICIARY COMMITTEE  
January 17, 1977

The meeting of this committee was called to order at 9:30 a.m. in Room 442 by Senator Turnage, Chairman, on the above date.

ROLL CALL:

All members of the committee were present for this meeting.

WITNESSES APPEARING TO TESTIFY:

Senator Rasmussen - District 16

Tom Stoll, administrator of Inheritance Tax Division, Department of Revenue

Senator Hazelbaker - District 41

CONSIDERATION OF SENATE BILL 58:

Senator Rasmussen, District 16, presented and explained this bill to the committee as he has sponsored it.

Marie Brazier of the Montana Nurses Association was present in support of S.B. 58.

There were no opponents to this bill present at the meeting.

DISPOSITION OF SENATE BILL 58:

Senator Olsen moved that S.B. 58 DO PASS. The motion carried unanimously.

CONSIDERATION OF SENATE BILL 70:

Tom Stoll, administrator of the Inheritance Tax Division of the Montana Department of Revenue, explained the bill to the committee, and told them that this is actually a taxpayer's relief bill.

There were no opponents present on S.B. 70.

DISPOSITION OF SENATE BILL 70:

Senator Warden moved to amend the title of S.B. 70 on line 7 following the word "HOURS" by inserting "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE" and to further amend S.B. 70 on page 2, following line 1, by adding a new section as follows: "Section 3. Effective Date. This act shall be effective upon its passage and approval." The motion carried unanimously.

Senator Warden then moved that S.B. 70, as amended, DO PASS. This motion also carried unanimously.

## JUDICIARY COMMITTEE

Date 1-17-77

[illegible]

# STANDING COMMITTEE REPORT

.....January 17,..... 19 77.....

MR. **PRESIDENT:**.....

We, your committee on .....**JUDICIARY**.....

having had under consideration .....**SENATE**..... Bill No. **58**.....

Respectfully report as follows: That .....**SENATE**..... Bill No. **58**.....

DO PASS

DATE 6-17-77

COMMITTEE ON Judiciary

BILL NO. ~~33~~ - 70

Note Bill No.

# VISITOR'S REGISTER

[illegible]

MINUTES OF MEETING  
SENATE JUDICIARY COMMITTEE  
January 21, 1977

The meeting of this committee was called to order by Senator Turnage, Chairman, at 9:30 a.m. in Room 442 of the State Capitol Building on the above date.

ROLL CALL:

All members were present at this meeting.

CONSIDERATION OF SENATE BILL 115:

Tom Stoll, Administrator, Inheritance Tax Division, Department of Revenue, said that his division also handles abandoned property and that he would like to get together with Senator Towe to make an amendment.

At this time, Senator Towe explained the bill to the committee. The purpose of the bill is actually to reduce the paper work required.

Mr. Stoll told the committee that the problem his division has is that there is no minimum refund established and that he would like the minimum refund to be the same as the aggregate amount.

There being no more proponents or opponents of the bill present, it was decided that S.B. 115 would be considered at a later date.

CONSIDERATION OF SENATE BILL 119:

Senator Hazelbaker of District 41 was present, as co-sponsor of the bill with Senator Roberts, and explained the bill to the committee. He said that this bill had been drafted because many times law enforcement officers call for backups from other law enforcement type agencies.

At this time, the representative of the Chiefs of Police Association, Chief Gerald T. Dunbar of Billings, Montana, said that matters covered by this bill had been worked on at several meetings over the past few years, and that he thought it was a good bill. Joe Sol of the Montana Highway Patrol also spoke briefly on behalf of S.B. 119, as did Tom Dowling, representing the Sheriff's & Peace Officers Association, and Tom Harrison, representing the Montana Police Protective Association. Mr. Dowling and Mr. Harrison answered questions by the committee on the bill.

There were no opponents to S.B. 119 present.

Since there were many of the associations' representatives present, the Chairman asked that the committee and the representatives work this bill out immediately during this committee meeting.



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DISPOSITION OF SENATE BILL 119:

Sen. Towe moved to amend page 1, section 1, line 17, following "municipality or" by inserting an "a"; and to further amend Senate Bill 119 on page 2, section 3, line 12, following "shall" by inserting ", if it so requests,". Motion carried unanimously.

Senator Towe then moved to amend page 2, section 3, line 13, following "services" by striking "out of which the payments arose" and inserting "for all wages, claims for damage to clothing and equipment, and medical expense not otherwise reimbursed". The motion carried unanimously.

Senator Warden moved that Senate Bill 119, as amended, DO PASS. The motion carried unanimously.

CONSIDERATION OF SENATE BILL 58:

Senate Bill 58 had been recalled by this committee in order that Senate Bill 95 could be correctly incorporated into it.

DISPOSITION OF SENATE BILL 58:

Senator Towe moved that Senate Bill 58 be amended in the title, line 5, following: "OF" by inserting "PROFESSIONAL"; and to further amend the title, line 8, following "COMMITTEES" by striking the "." and inserting "AND PROVIDING AN EVIDENTIAL PRIVILEGE FOR COMMITTEE RECORDS AND MEMBER TESTIMONY."

And to further amend page 1, section 1, line 16, following "of a" by inserting "professional";

And to further amend on page 2, section 1, subsection (2), line 8, following line 7, by inserting "(2) The proceedings and records of professional utilization, peer review, and professional standards review committees are not subject to discovery or introduction into evidence in any proceeding. However, information otherwise discoverable or admissible from an original source is not to be construed as immune from discovery or use in any proceeding merely because it was presented during proceedings before the committee, nor is a member of the committee or other person appearing before it to be prevented from testifying as to matters within his knowledge, but he cannot be questioned about his testimony or other proceedings before the committee or about opinions or other actions of the committee or any member thereof.", and renumber the subsequent subsection.

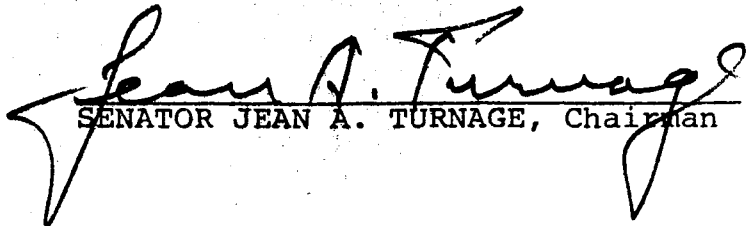
The motion for the above amendments carried unanimously.

Senator Murray moved that Senate Bill 58, as amended, DO PASS. The motion carried unanimously.

DISPOSITION OF SENATE BILL 95:

Senator Towe moved that Senate Bill 95 DO NOT PASS. The motion carried unanimously.

There being no further business before the committee at this time, the committee adjourned at 11:00 a.m. to resume at 9:30 a.m. on January 22, 1977, in Room 442 to consider Senate Bill 125.

  
SENATOR JEAN A. TURNAGE, Chairman

After the meeting, Joan Mayer, Legislative Council, found that another amendment was needed on S.B. 119 and, therefore, S.B. 119 was returned to this committee from the Secretary of the Senate's office.

## JUDICIARY

45th LEGISLATIVE SESSION - - 1977

Date

1/21/77

[illegible]

# STANDING COMMITTEE REPORT

January 21, 19 77

MR. .... **PRESIDENT:** .....

We, your committee on ..... **JUDICIARY** .....

having had under consideration ..... **SENATE** ..... Bill No. **58** .....

Respectfully report as follows: That ..... **SENATE** ..... Bill No. **58**,  
the Third Reading bill, be amended as follows:

1. Amend title, line 5.  
Following: "of"  
Insert: "PROFESSIONAL"

2. Amend title, line 8.  
Following: "COMMITTEES"  
Strike: ". "  
Insert: "AND PROVIDING AN EVIDENTIAL PRIVILEGE FOR COMMITTEE  
RECORDS AND MEMBER TESTIMONY."

3. Amend page 1, section 1, line 16.  
Following: "of a"  
Insert: "professional"

4. Amend page 2, section 1, subsection (2), line 8.  
Following: line 7

Insert: "(2) The proceedings and records of professional utilization, peer review, and professional standards review committees are not subject to discovery or introduction into evidence in any proceeding. However, information otherwise discoverable or admissible from an original source is not to be construed as immune

DO NOT WRITE

XXXXXX

from discovery or use in any proceeding merely because it was presented during proceedings before the committee, nor is a member of the committee or other person appearing before it to be prevented from testifying as to matters within his knowledge, but he cannot be questioned about his testimony or other proceedings before the committee or about opinions or other actions of the committee or any member thereof."

Renumber: subsequent subsection

AID AS SO AMENDED, DO PASS.

SEN. JEAN A. TURNAGE, Chairman

PA.

JUDICIARY COMMITTEE

March 9, 1977

The regularly scheduled meeting of the House Judiciary Committee was called to order by Chairman Scully at 8:00 a.m. in room 436 of the Capitol Building, Helena, on Wednesday, March 9. All members were present with the exception of Representatives Colburn and Kennerly.

Scheduled for hearing were Senate Bills 58, 119, 215, 229, 250, 254, 326 and 176.

SENATE BILL #215:

SENATOR TURNAGE, DISTRICT #14:

This bill came about because people raising buffalo let them run at large, and they have become a problem in some areas. The fish and game doesn't want them on their list, they don't want to bother with them. The bill states there would be liability of the owners for trespass.

There were no other proponents and no opponents.

The hearing closed on Senate Bill #215.

The hearing opened on Senate Bill #326:

SENATE BILL #326:

SENATOR TURNAGE, DISTRICT #14:

This came up in Lake County. In cases in which the term used to be annulment, it is now declaring the invalidity of a marriage. We changed the wording because of the common law marriage. Before we adopted the uniform marriage law you could annul any marriage. The law now states certain circumstances in which a marriage cannot be annulled. He cited these instances.

No other proponents and no opponents.

The hearing closed on Senate Bill #326.

The hearing opened on Senate Bill #119

SENATE BILL #119:

SENATOR HAZELBAKER, DISTRICT #24:

This bill is designed from bills from other states, to retain all privileges and immunities from liability, when responding to or providing assistance to any other peace officer who has called for assistance. It would provide guidelines. This would be if a peace officer is rendering assistance and is injured while doing so this would entitle him to his same salary, insurance, pension and other benefits.

PROPONENT, JOE SOLE, MONTANA HIGHWAY PATROL:

We want to be able to give help if in a situation where it might be required, such as a family fight. This would help there, they would

March 9, 1977

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There were no other proponents and no opponents.

REPRESENTATIVE DUSSAULT:

Is the first priority the expenses of administration?

Mr. MAR:

That is already a priority.

Some general discussion followed about the priorities and some other claims, liquidated insurance, etc.

The hearing closed on Senate Bill #229.

The hearing opened on Senate Bill #176.

SENATE BILL #176:

SENATOR MURRAY, DISTRICT #50:

This bill is amending the waiting period of 20 days after filing a petition for dissolution of marriage before it may be entered. He went through the bill and explained the parts. Commencing on line 17 it stated in the original act that the opposing party could file within 20 days of the date of service.

REPRESENTATIVE DUSSAULT:

What was the original purpose of the 20 days, was it a cooling off period?

SENATOR MURRAY:

Yes, more or less. The committee wanted to preserve the 20 days.

After some general discussion the hearing closed on Senate Bill #176.

The hearing opened on Senate Bill #58.

SENATE BILL #58:

SENATOR RASMUSSEN, DISTRICT #16:

This bill deals with peer review committee regarding liability and professional standards and amending so the statute will apply to all health care professionals on such committees. The need for this has grown up as the government has gotten into the health care field. There are essentially two parts to this bill. It differentiates between the different professions. It mentioned the exemptions that are contained in the bill, and also stated that nurses are now included as part of the health care group.

PROPONENT, ROD GUDGEL, MNHA, MSPA and MOA:

I am representing the state pharmaceutical association and also the nurses association and in doing so, I go on record as supporting the bill.

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PROPONENT, CHAD SMITH, MONTANA HOSPITAL ASSOCIATION:  
We want to add our name in support of this bill.

MARY MARROTT, NURSING ASSOCIATION AND ST. PETERS HOSPITAL:  
We want to be on record in support of the bill.

There were no other proponents and no opponents.

There followed a discussion about the review board, the confidentiality of the records and the fact that the board is required to keep any records confidential and whether there was now a review committee.

Mr. Smith stated that this bill would expand and extend the board more. It would be a self-policing type of thing.

REPRESENTATIVE ROTH:  
Who appoints this committee?

MR. SMITH:  
The professional staff of the hospital.

Representative Ramirez wondered if they had considered a more detailed description of who was contained in the term professional.

Representative Dussault wondered if the new material was designed to protect the peer review from liability on the review.

MR. SMITH:  
The idea was that it would be open for these peer review committees to do their work but keep it confidential.

Discussion about the peer review process.

REPRESENTATIVE DUSSAULT:  
What is the responsibility of that committee in the case of malpractice?

Mr. SMITH:  
The board would review with the doctor and might give recommendations.

Then followed discussion about small town or single doctor communities. A general question and answer session followed about nurses, how the bill came about, etc.

The hearing closed on Senate Bill #58.

THE HEARING OPENED ON SENATE BILL #254:

PAT MELBY, DIRECTOR OF SOCIAL REHABILITATION:  
We are asking that this bill be used to amend so that welfare fraud will be classed as a felony instead of a misdemeanor, and that fraud



## JUDICIARY COMMITTEE

Executive session

March 10, 1977

The executive session followed the regular meeting of the House Judiciary committee on Thursday, March 10 at 8:30 a.m. in room 436 of the Capitol Building, Helena, Montana. Members absent and not voting were Representatives Dussault and Kennerly.

### SENATE BILL #41:

REPRESENTATIVE LORY moved "be concurred in".  
The motion carried with the vote unanimous.

### SENATE BILL #42:

REPRESENTATIVE CONROY moved "be concurred in".  
The motion carried with Representative Hand voting "no".

### SENATE BILL #43:

REPRESENTATIVE RAMIREZ moved "be concurred in".  
The motion carried with the vote unanimous.

### SENATE BILL #53:

REPRESENTATIVE LORY moved "be concurred in".  
Representative Eudaily reported what he had found out on the school fund. There is a special school fund in budgets for liability coverage. That would make it possible for them to set up this fund and levy this millage. There is no reserve fund but the schools feel this can be set up. After additional discussion it was decided to pass consideration for the day until the members had more time to study the bill.

### SENATE BILL #58:

REPRESENTATIVE EUDAILY moved "be concurred in".  
A general discussion followed about what this bill does.  
The question was called and the motion carried with the vote unanimous.

### SENATE BILL #119:

REPRESENTATIVE KEYSER moved "be concurred in".  
Representative Ramirez moved to amend a section he was concerned about. A discussion followed about workmen's compensation and how this bill would be affected by the portion dealing with that subject. Representative Ramirez withdrew his motion and the original motion was back in force. The question was called and the motion carried with the vote unanimous.

### SENATE BILL #176:

REPRESENTATIVE LORY moved "be concurred in".  
The motion carried with Representative Day voting "no".

### SENATE BILL #215:

REPRESENTATIVE CONROY moved "be concurred in".  
The motion carried with the vote unanimous.

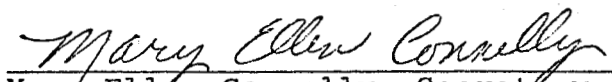
March 10, 1977  
Page 2

Chairman Scully assigned the following representatives to carry the respective senate bills as follows:

|                 |                               |
|-----------------|-------------------------------|
| Senate Bill 40  | Representative Lory           |
| Senate Bill 41  | Representative Lory           |
| Senate Bill 42  | Representative Lory           |
| Senate Bill 43  | Representative Lory           |
| Senate Bill 58  | Representative Scully         |
| Senate Bill 119 | Representative Keyser         |
| Senate Bill 176 | Representative Day            |
| Senate Bill 215 | Representative Conroy or Roth |

The meeting adjourned at 9:00 a.m. so the water sub-committee could meet.

  
JOHN P. SCULLY, CHAIRMAN

  
Mary Ellen Connelly, Secretary

## SENATE BILL NO. 58

INTRODUCED BY RASMUSSEN

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 66-1052, R.C.M. 1947, RELATING TO LIABILITY OF PROFESSIONAL UTILIZATION, PEER REVIEW, AND PROFESSIONAL STANDARDS COMMITTEES SO THAT THE STATUTE WILL APPLY TO ALL HEALTH CARE PROFESSIONALS ON SUCH COMMITTEES AND PROVIDING AN EVIDENTIAL PRIVILEGE FOR COMMITTEE RECORDS AND MEMBER TESTIMONY."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 66-1052, R.C.M. 1947, is amended to read as follows:

"66-1052. Nonliability for peer review -- application to nonprofit corporations. (1) No member of a utilization review committee of a hospital, or long-term care facility, or of a PROFESSIONAL utilization committee of--a--state-wide or--local-society-composed-of-doctors-of-medicine-or-doctors of-osteopathic-medicine-and-surgery-or-of-a-peer-review-or professional--standards--review-committee-of-a-state-wide-or local-society-composed-of-doctors-of--medicine--doctors--of osteopathic--medicine--and--surgery--doctors--of-dentistry, chiropractors--doctors--of--optometry--or--registered pharmacists--shall-be, peer review committee, or professional standards review committee of a society composed of persons

licensed to practice a health care profession is liable in damages to any person for any action taken or recommendation made within the scope of the functions of the committee, if the committee member acts without malice and in the reasonable belief that the action or recommendation is warranted by the facts known to him, after reasonable effort to obtain the facts of the matter for which the action is taken or a recommendation is made.

(2) THE PROCEEDINGS AND RECORDS OF PROFESSIONAL UTILIZATION, PEER REVIEW, AND PROFESSIONAL STANDARDS REVIEW COMMITTEES ARE NOT SUBJECT TO DISCOVERY OR INTRODUCTION INTO EVIDENCE IN ANY PROCEEDING. HOWEVER, INFORMATION OTHERWISE DISCOVERABLE OR ADMISSIBLE FROM AN ORIGINAL SOURCE IS NOT TO BE CONSTRUED AS IMMUNE FROM DISCOVERY OR USE IN ANY PROCEEDING MERELY BECAUSE IT WAS PRESENTED DURING PROCEEDINGS BEFORE THE COMMITTEE, NOR IS A MEMBER OF THE COMMITTEE OR OTHER PERSON APPEARING BEFORE IT TO BE PREVENTED FROM TESTIFYING AS TO MATTERS WITHIN HIS KNOWLEDGE, BUT HE CANNOT BE QUESTIONED ABOUT HIS TESTIMONY OR OTHER PROCEEDINGS BEFORE THE COMMITTEE OR ABOUT OPINIONS OR OTHER ACTIONS OF THE COMMITTEE OR ANY MEMBER THEREOF.

(2)(3) This act also applies to any member OR NONMEMBER of a nonprofit corporation engaged in performing the functions of a peer review or professional standards review committee."

-End-

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SB 58

REFERENCE BILL